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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,787	11/07/2000	Benoit Laflamme		4281

7590 06/22/2004
John R Ross III
Ross Patent Law Office
P O Box 2138
Del Mar, CA 92014

EXAMINER

MASINICK, MICHAEL D

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 06/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/709,787

Applicant(s)

LAFLAMME ET AL.

Examiner

Michael D Masinick

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21-30, 33, 36, 37, 94-100 and 139-145 is/are pending in the application.
- 4a) Of the above claim(s) 33, 36, 37 and 141-143 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19, 21-30, 94-100 and 139, 140, 144, and 145 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This action is in response to the applicants response to a restriction requirement. Applicant has elected claims 1-19, 21-30, 94-100, 139, 140, and 144-145. After receiving this response, examiner discovered that earlier claims 33, 36, and 37 were changed to be dependant upon claim 142. In a phone conversation with John Ross III on June 14, 2004, applicant confirmed that these claims should also be restricted with the current restriction requirement as they are dependant upon a non-elected claim.

As this election was made without traverse, this restriction requirement is made final and applicant is requested to officially cancel all non-elected claims in response to this office action.

Response to Amendment

1. Applicant's arguments filed March 1, 2004 after RCE have been considered but they are not persuasive.
2. Applicant asserts that the statements in Column 5, lines 24-41 of Bassett do not show the new claim additions of a control page display "comprising information related to the control and status of said remote controlled and monitored spa."
3. While this passage can be read explicitly, it clearly states that a control computer, with a control page, is "programmed to monitor, control, schedule, and log data from the various appliances". Column 5, line 56 clearly shows the use of this controller to control a hot tub.
4. It is true that Bassett does not explicitly state that the control page contains information related to the control and status of the spa, however the ability to have a control page and the

ability to control a spa system would clearly and inherently lead to the control page containing status and control system for the spa application as this is the focus of the invention of Bassett.

5. In response to applicants arguments regarding claims 8-10, applicant claims that the "interface signal converter is used by a service technician to troubleshoot and then repair a spa where the spa owner opted not to buy his own interface signal converter." Examiner agrees that this is clearly shown in the specification, but the claim only recites how the signal converter is attached to the spa in very simple terms. Applicant should include the elements of the signal converter use by a spa technician in these claims if it is intended to be included as a claim element.

6. Furthermore, applicant states that it the interface signal converter of Williams "is not remotely similar" to the interface signal converter of Bassett. This is not an issue in this rejection. The interface signal converter of Williams is not used to provide any service to this rejection other than showing that the interface signal converters in general, and especially in potentially wet environments, can be removable, secured, or fit into a cavity. The operation of the converters and their intended uses does not affect the validity of this rejection. It would have been obvious to one of ordinary skill to use the connection concepts of the interface signal converter of Williams when looking for potential ways to connect the interface signal converter of Bassett.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 16-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 16-19 recites the use of "symbols" which are used for control elements. The specification does not mention symbols in any way. An art rejection is given for claims 16-19 below.
9. Claims 94-100 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 16-19 recites the phrase "selecting one of said first interface and said second interface on the basis of an input selection signal". The specification on page 6 states "To decide which source to listen to (i.e., R5-485 or IR), CPU 70 disables both buffers 74 and 64. It then listens to serial lines 78 and 80 on ports R84 and R85. As soon as a signal is detected on one or the other of serial lines 78 or 80, CPU 70 transmits a corresponding signal 82 or 84 to enable either buffer 74 or buffer 64, respectively. Once the appropriate buffer has been enabled, the signal is then allowed to flow to UART 76."
10. While this is a minor issue, this enablement does not include a "input selection signal". In order to clarify this claim, applicant is asked to use language which puts the claim more in line

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with the specification. For example, "selecting one of said first and said second interface on the basis of a signal received on one of two serial lines which respectively determine which input should be used."

11. No art rejection is given for claims 94-100, as they would be indicated as allowable if amendments similar to the suggested amendment are made.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-6, 11-13, 16-20, 23, 27, 28, 30, 139, 140, 144, and 145 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,706,191 to Bassett et al.

3. Referring to claims 1, 30, 144, and 145, Bassett shows a remotely controlled and monitored spa comprising: a spa controller (Col 1, lines 26-34), an interface signal converter, electrically connected to said spa controller ("AIM", Col 6, lines 5-20); and a remote computer connected to said interface signal converter via a communications link (Figure 15, note that HVAC is an example used in this figure), wherein said remote computer is programmed to display a control page comprising information related to the control and status of said remotely controlled and monitored spa (Col 5, lines 24-41), and wherein said interface signal converter

converts communication signals transferred from said remote computer via said communications link and directs the converted signals to the spa controller, and wherein said interface signal converter converts signals from the spa controller to be communicated to said remote computer via said communications link (Col 6, lines 14-20).

4. Referring to claims 4-6, Bassett shows where the interface signal converter comprises an IR or RF transceiver and is capable of transceiving at least two different types of signals.

Examiner notes that these AIMs are designed to run on the CEBus system shown in column 1, lines 46-60 and would inherently be able to transceive all communications available on such a system.

5. Referring to claims 11 and 12, Bassett shows where the remote computer is connected to the interface by wired or wireless technology (IR, RF, or Twisted Pair – Col 1 lines 46-60).

6. Referring to claim 13 and 21, Bassett shows a second computer for sending commands to said spa controller and receiving data from said spa controller wherein said second remote computer is connected to said spa controller via a computer network. Examiner notes that

modems are used to connect computers to computer networks. Therefore any computer in the which contains a modem with access to a telephone line has the ability to connect to the spa controller and could qualify as a second computer.

7. Referring to claim 23, Bassett shows where the computer network comprises a LAN. Examiner notes that a simple twisted pair connection between two microcomputers, like the one shown above, is considered to be a Local Area Network.

8. Referring to claim 27, Bassett shows where the remote computer is connected to a computer network (Examiner notes that modems are used to connect computers to computer networks. Bassett's use of a modem in column 5 as shown above therefore reads on this claim).
9. Referring to claim 28, Bassett shows where the remote computer is used to monitor and control the spa (Col 6, lines 14-19).
10. Referring to claim 139, Bassett shows the use of a modem for remote programming of the spa controller through the interface signal converter. This modem can be used by any computer system in the world to connect to the system of Bassett and any similar systems. Thus, any computer in the world can connect to any number of spas dependant only on the internet topology requirements of the computer.
11. Referring to claim 140, it has been stated previously that the location of the claimed system is not an element which effects the patentability of the claims.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
13. Claims 2-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al in view of U.S. Patent No. 5,877,957 to Bennett.
14. Bassett does not specifically show the use of a RS-485 transceiver in the interface signal converter alone or as one of two different types of communications.

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15. Bennett shows an appliance control system in a home automation environment. In Column 20, lines 1-9, Bennett shows that in addition to CEBus, X-10, and other home automation protocols, RS-485 may also be used.

16. It would have been obvious to one of ordinary skill in the art at the time of invention to use a RS-485 transceiver in the AIM of Bassett because it is another commonly used protocol in the computer networking industry as shown by Bennett.

17. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al in view of U.S. Patent No. 6,459,959 to Williams et al.

18. Bassett does not specifically show that the interface signal converter can be removable, secured, or fits into a cavity.

19. Williams shows an irrigation system with removable station modules for watering. Because of the damp conditions, these modules may be attached with screws as shown in figure 4, or a removable bracket as shown in figure 5. Figure 7 shows a cavity where the controller module would be placed.

20. It would have been obvious to one of ordinary skill in the art at the time of invention to use the removable modules and cavity of Williams in the spa control system of Bassett because they share the same problem of dampness and wet conditions. It would have been obvious to one looking to solve this problem to look in any art where large amounts of water are involved.

21. Claims 14, 15, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al.

22. Bassett does not show that the computer network can be the internet.

23. Bassett does show the use of a modem for connection to a network.

24. It would have been obvious to one of ordinary skill in the art at the time of invention to connect the network of Bassett to the internet using any standard protocols such as TCP/IP.

Internet controlled devices and web pages that control household devices are well known in the art.

25. Claims 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al in view of U.S. Patent No. 5,559,720 to Tompkins et al.

26. Referring to claims 16-20, Bassett does not specifically show where the control page displays symbols to control at least one water pump, control at least one heater, or monitor spa errors.

27. Tompkins shows a spa system with a digital microcomputer control panel which receives input from a user and sends signals to a spa controller. Tompkins shows where the control page displays symbols to control at least one water pump ("Jet Button" – Col 16, lines 39-61), control at least one heater (Figure 1, column 4, lines 19-23), or monitor spa errors (Col. 18, lines 56-62).

28. It would have been obvious to one of ordinary skill at the time the invention was made to use the basic control elements as shown in Tompkins as the control elements in the design of a control screen for Bassett because these are the basic control elements in any spa system and would need to be controlled by any effective spa control system.

29. Claims 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett et al in view of US Patent No. 5,764,639 to Staples et al.
30. Bassett does not show that the remote computer is a PDA or a cellular phone.
31. Staples shows that in column 4, lines 23-35, the use of a PDA or cellular phone to connect to a communications system.
32. It would have been obvious to one of ordinary skill in the art at the time of invention to use the PDA and Cellular phone of Staples as the remote computers in Bassett because they are smaller and easier to carry than a laptop computer as specified but can provide the functionality.
33. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett.
34. Bassett does not specifically say that the remote computer can be located underneath a spa skirt.
35. It would have been obvious to one of ordinary skill in the art at the time of invention, when looking for a place to hide the remote computer, to place the computer under a spa skirt in near proximity to the spa controller.
36. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,706,191 to Bassett.
37. Bassett does not specifically say that the remote computer can be used to download software to the spa controller.

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38. As shown in reference to claims 14, 15, and 22 above, the internet could easily be connected to the system of Basset. It is well known in the art that the internet can be used to download related software, and that this can be done in an automated fashion. It would have been obvious to one of ordinary skill in the art at the time of invention to use the remote computer to download related software via the internet to the spa controller.

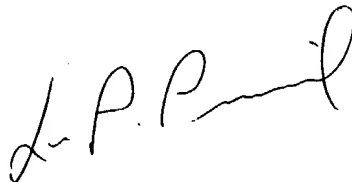
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D Masinick whose telephone number is (703) 305-7738. The examiner can normally be reached on Mon-Fri, 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on (703) 308-0538. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7239 for regular communications and (703) 746-7239 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

mdm
June 16, 2004



LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100